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15
16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**
18

19 MICHELLE FANUCCI,

20 Plaintiff,

21 vs.

22 ALLSTATE INSURANCE COMPANY;
MICHAEL B. BALDWIN;
23 DOES 1 through 50, inclusive,

24 Defendants.

CASE NO. CV 08-02151 EMC

**STIPULATION RE BAD FAITH,
BREACH OF THE IMPLIED
COVENANT OF GOOD FAITH AND
FAIR DEALING, AND DAMAGES
INCURRED BY PLAINTIFF ; ORDER**

1 Plaintiff Michelle Fanucci and Defendant Allstate Insurance Company, by and
2 through their respective counsel of record, hereby stipulate and agree as follows:

3 WHEREAS Plaintiff has alleged that Defendant acted unreasonably and in bad faith
4 when it failed to accept Plaintiff's alleged demand for payment of \$150,000 and allegedly
5 failed to make a reasonable settlement offer;

6 WHEREAS Plaintiff has alleged that Defendant breached the implied covenant of
7 good faith and fair dealing in its handling of her underinsured motorist claim;

8 WHEREAS the Honorable David C. Lee (Retired), who served as arbitrator in the
9 August 2005 arbitration hearing between the parties, determined that Plaintiff had
10 sustained \$1,418,024.07 in damages as a result of the January 18, 1997 auto accident that
11 gave rise to this litigation;

12 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED that (1)
13 Plaintiff will withdraw with prejudice the bad faith portion of her breach of contract claim
14 in this action; (2) Plaintiff will withdraw with prejudice her claim for breach of the implied
15 covenant of good faith and fair dealing in this action; and (3) the amount of damages
16 sustained by Plaintiff as a result of the January 18, 1997 accident was established at the
17 arbitration hearing and that award in the amount of \$1,418,024.07 (reduced by \$250,000 –
18 \$100,000 paid by the Hartford Insurance Company and \$150,000 paid by Defendant) is
19 binding on all parties as to the amount of damages Plaintiff was legally entitled to recover
20 from the underinsured motorist.

21 IT IS SO STIPULATED.

22
23 DATED: April __, 2009

**PEARSON, SIMON, WARSHAW & PENNY,
LLP**

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26 By: /s/ George S. Trevor
27 GEORGE S. TREVOR
Attorneys for Plaintiff MICHELLE FANUCCI
28

1 DATED: April 28, 2009

**SONNENSCHN NATH & ROSENTHAL
LLP**

4 By: /s/ Sonia Martin

SONIA MARTIN
Attorneys for Defendant ALLSTATE
INSURANCE COMPANY

7 IT IS SO ORDERED:

9
10 Edward M. Chen
11 U.S. Magistrate Judge

